

Instructions for 593

Real Estate Withholding Tax Statement

General Information

Registered Domestic Partners (RDP) –

~~Effective for taxable years beginning on or after January 1, 2007~~, RDPs under California law must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs will have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at ftb.ca.gov and search for RDP.

For purposes of California income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials (RDP), they refer to both a California registered domestic “partner” and a California registered domestic “partnership,” as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the Franchise Tax Board will disregard the cents. This change helps process your returns quickly and accurately by providing consistency with the electronically filed returns.

Electronic Funds Transfer (EFT)

Corporations that meet certain requirements must remit all of their payments through EFT rather than by paper checks to avoid the EFT penalty. Corporations that remit an estimated tax payment or extension payment in excess of \$20,000 or that have a total tax liability in excess of \$80,000 must remit all of their payments through EFT. The FTB will notify corporations that are subject to this requirement. Those that do not meet these requirements and wish to participate on a voluntary basis may do so. For more information, go to our website at ftb.ca.gov and search for EFT, call (916) 845-4025, or get FTB Pub. 3817, Electronic Funds Transfer Program Information Guide.

When remitting payments by EFT, please mail Copy A of Form 593 to the following address:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-8888

A Purpose

Use Form 593, Real Estate Withholding Tax Statement, to report real estate withholding on

sales closing in 2009, on installment payments made in 2009, or on exchanges that were completed or failed in 2009.

Use a separate Form 593 to report the amount withheld from each seller. If the sellers are married or registered domestic partners (RDPs) and they plan to file a joint return, include both spouses/RDPs on the same Form 593.

Common Errors

Year of Form – The year (at the top) of Form 593 must be the same as the year on line 2. See instructions for line 2. If you do not have Form 593 with the correct year, go to our website at ftb.ca.gov to get the correct form(s) 593 and 593-B, Real Estate Withholding Tax Statement, for prior years.

Identification Numbers – Check to see that the withholding agent's and seller's identification numbers are correct and listed in the same order as the names. If both a husband/RDP and wife/RDP are listed, make sure both social security numbers (SSNs) or individual taxpayer identification numbers (ITINs) are listed in the same order as their names.

Trusts and Trustees – It is important to report the correct name and identification number when title is held in the name of a trust. If the seller is a trust, see the Specific Line Instructions for Seller or Transferor.

B Who Must File

Any person who withheld on the sale or transfer of California real property during the calendar month must file Form 593 to report and remit the amount withheld. Normally, this will be the title company, escrow company, intermediary, or accommodator. Generally, the buyer will only complete these forms when reporting the withholding on installment payments.

C When and Where to File

File **Copy A** of Form 593 and pay the amount of tax withheld within 20 days following the end of the month in which the transaction occurred.

Mail **Copy A** of Form 593 and payment to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Distribute the other copies of Form 593 as follows:

- **Copy B** – Send to sellers within 20 days following the end of the month in which the transaction occurred.
- **Copy C** – Retained by withholding agent.

D Interest and Penalties

Interest will be assessed on late withholding payments and is computed from the due date to the date paid. If the real estate escrow person does not notify the buyer of the withholding requirements in writing, the

penalty is the greater of \$500 or 10% of the required withholding.

If the buyer (after notification) or other withholding agent does not withhold, the penalty is the greater of \$500 or 10% of the required withholding.

If the withholding agent does not furnish complete and correct copies of Form 593 to the FTB by the due date, within 20 days following the end of the month in which the transaction occurred, but does file them within 30 days of the due date, the penalty is \$15 per Form 593. If Form 593 is filed more than 30 days after the due date, the penalty is \$50 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$100 or 10% of the required withholding.

If the withholding agent does not furnish complete and correct copies of Form 593 to the seller by the due date, within 20 days following the end of the month in which the transaction occurred, the penalty is \$50 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$100 or 10% of the required withholding.

E Amending Form 593

Do not file an amended Form 593 to cancel the withholding amount for a Form 593-C, Real Estate Withholding Certificate, filed after the close of escrow.

To amend Form 593:

- Complete a new Form 593 with the correct information.
- Check the “Amended” box at the top of the revised form.
- Include a letter explaining what changes were made and why.
- Fax the amended form and letter to our general fax number, (916) 845-9512. If an amended form was requested by the FTB, use the fax number that was provided.

Whenever an amended Form 593 is provided to the FTB, Copy B should also be provided to each affected seller. Be sure to check the “Amended” box at the top of the revised form.

Amended forms can only be filed by the withholding agent. If a seller notices an error, the seller should contact the withholding agent.

Instructions for Seller

This withholding of tax does not relieve you from the requirement to file a California income tax return and report the sale within three months and fifteen days (two months and fifteen days for a corporation) after the close of your taxable year.

You may be assessed penalties if:

- You do not file a tax return.
- You file your tax return late.
- The amount of withholding does not satisfy your tax liability.

G How to Claim the Withholding

To claim the withholding credit, report the sale or transfer as required and enter the amount from line 5 on the line for real estate or nonresident withholding on your tax return. Attach **Form(s) 593, Copy B**, to the lower front of your California tax return. Make a copy for your records.

If withholding was done for a failed exchange or on boot in the year following the year the property was sold, the withholding is shown as a credit for the taxable year the withholding occurred since you qualify for installment sale reporting. If you elect to report the gain in the year the property was sold, instead of in the year you received the payment, contact the FTB at **(888) 792-4900** prior to filing your California tax return for instructions to have the credit transferred to the prior year.

Specific Instructions

Part I – Withholding Agent

Enter the name, mailing address, and identification number of the withholding agent (payer/sender). Enter the SSN or ITIN only when the buyer, who is an individual, is sending the withholding payment.

Seller or Transferor

Enter the name, mailing address, and identification number of the seller or transferor. If the seller has applied for an identification number, but it has not been received, enter, "Applied For" in the space for the seller's ID and attach a copy of the federal application behind Form 593.

If the seller is an **individual**, enter the SSN or ITIN. If the sellers are husband/RDP and wife/RDP and plan to file a joint return, enter the name and SSN or ITIN for each spouse/RDP. Otherwise, do not enter information for more than one seller. Instead, complete a separate Form 593 for each seller.

If the seller is a **grantor trust**, enter the grantor's individual name and SSN or ITIN. Do not enter the name of the grantor trust. The grantor trust is disregarded for tax purposes and the individual seller must report the sale and claim the withholding on the individual's tax return.

If the seller is a **non-grantor trust**, enter the name of the trust and the trust's federal employer identification number (FEIN). If the trust has not applied for a FEIN, leave the identification number blank. **Do not enter the trustee information.**

If the seller is a **single member disregarded LLC**, enter the name and identification number of the single member.

For all other **non-individual** sellers, enter the FEIN or California corporation number.

Enter the address (or parcel number and county) of the CA real property transferred.

Conventional Sale or Transfer and Installment Sales: Enter the address (parcel number and county) of the transferred property.

Exchanges: Enter the address of the relinquished property.

Part II – Escrow or Exchange Information

Caution – Installment Sales

Follow the Installment Sales instructions only if the buyer **agrees** either to withhold $3\frac{1}{3}\%$ on the principal portion of each installment payment or the installment withholding percentage calculated by the seller in these instructions and specified on Form 593-I, Real Estate Withholding Installment Sale Agreement. The buyer must have completed and signed Form 593-I, to defer any withholding. Attach Form 593-I behind Form 593 with the withholding amount calculated as part of the first installment payment paid in escrow, or with the principal portion of the first installment payment, if there was no first installment payment paid in escrow. You need not obtain the seller's signature on each new and completed Form 593.

If the buyer **did not agree** either to withhold $3\frac{1}{3}\%$ or the installment withholding percentage on the principal portion of each installment payment, or **did not complete** Form 593-I, then follow the instructions under line 3 for **Conventional Sale or Transfer**.

Line 1 – Escrow or Exchange Number

Enter the escrow or exchange number for the property transferred.

Line 2 – Date of Transfer, Exchange Completion, Exchange Failure, or Installment Payment

Conventional Sale or Transfer: Enter the date escrow closed.

Installment Sales: For withholding on the first installment payment, enter the date escrow closed. For withholding on the principal portion of each installment payment, enter the date of the installment payment.

Exchanges: For completed exchanges, enter the date that the boot (cash or cash equivalent) was distributed to the exchanger. For failed exchanges, enter the date when it was determined that the exchange would not meet the deferred exchange requirements and any cash was distributed to the seller.

When withholding on boot or a failed exchange, be sure to use the forms for the year that you entered on line 2 (rather than the year of the sale), since the seller will be able to use installment sale reporting for the gain.

Line 3 – Type of Transaction

Check one box that represents the type of real estate transaction for which the withholding is being calculated.

Conventional Sale or Transfer: Check this box if the conventional sale or transfer represents the close of escrow for the real estate transaction. This sale or transfer does not contain any conditions such as an installment sale, boot, or failed exchange.

Installment Sale Payment: Check this box if you are withholding on either the first installment payment during escrow or on the principal portion of a subsequent installment payment

Boot: Check this box if the seller intends to complete a deferred exchange, but receives boot (cash or cash equivalent) out of escrow.

Failed Exchange: Check this box for any failed exchange, including if a failed deferred exchange had boot withheld upon in the original relinquished property.

Line 4 – Withholding Calculation

Check one box that represents the method to be used to calculate the withholding amount on line 5. Either the Total Sales Price Method ($3\frac{1}{3}\%$ of the sale price) or the Optional Gain on Sale Election based on the applicable tax rate as applied to the gain on sale. **Check only one box, A-F.**

Line 5 – Amount Withheld

Enter the amount withheld from this transaction or installment payment based upon the appropriate calculation for either the Total Sales Price or the Optional Gain on Sale Election, below.

Withholding Amount Using Total Sales Price

Conventional Sale or Transfer:

- Total Sales Price \$ _____
- Enter the seller's ownership percentage %
- Amount Subject to Withholding. Multiply line a by line b and enter the result \$ _____
- Withholding Amount. Multiply line c by $3\frac{1}{3}\%$ (.0333) and enter the result here and on Form 593, line 5 \$ _____

Installment Sales:

- Amount Subject to Withholding. If you are withholding on the first installment payment in escrow, enter the amount of the first installment payment. If you are withholding on subsequent installment payments, enter the principal portion of the payment \$ _____
- Withholding Amount. Multiply line a by $3\frac{1}{3}\%$ (.0333) and enter the result here and on Form 593, line 5 \$ _____

Exchanges:

- Amount Subject to Withholding. For completed deferred

exchanges, enter the amount of boot (cash or cash equivalent) received by the seller. \$ _____

- b. Withholding Amount. Multiply line a by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Failed Exchanges:

- a. Total Sales Price. If a deferred exchange is not completed or does not meet the deferred requirements, enter the total sales price \$ _____
- b. Ownership Percentage. If multiple transferors attempted to exchange this property, enter this seller's ownership percentage. Otherwise, enter 100.00% %
- c. Amount Subject to Withholding. Multiply line a by line b \$ _____
- d. Withholding Amount. Multiply line c by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Withholding Amount Using Optional Gain on Sale Election

Conventional Sale or Transfer: Enter the amount from Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, line 17 on Form 593, line 5.

Installment Sales: The Installment Withholding Percent is applied to the principal portion of all installment payments, including the first installment payment received during escrow to determine the gain on sale. The gain on sale is then multiplied by the seller's applicable tax rate to determine the withholding amount.

You must complete the calculation under Installment Withholding Percent first, in the next column, to determine the withholding percentage needed to complete the withholding amount in item c.

- a. Installment Payment. \$ _____
- b. Gain on Sale, multiply line a by the Installment Withholding Percent (calculated in the next column) \$ _____
- c. Withholding Amount. Multiply line b by the applicable tax rate* and enter the result here and on Form 593, line 5 \$ _____

*Tax Rates

Individual 9.3%
Corporation 8.84%
Bank and Financial Corporation 10.84%
S Corporation 1.5%
Financial S Corporation 3.5%

Installment Withholding Percent

Complete this calculation for the Installment Withholding Percent that will be applied to all installment payments, including the first installment payment received during escrow. If withholding on the principal portion of each installment payment, the seller must provide the buyer with the Installment Withholding Percent to be included on Form 593-I. If withholding on the first installment payment is received during escrow, then compute the percent as follows:

- a. Gain on Sale from Form 593-E, line 16 \$ _____
- b. Selling Price from Form 593-E, line 1 \$ _____
- c. Installment Withholding Percent, divide line a by line b %

Take the result of line c, above, and transfer the Installment Withholding Percent to the appropriate box in the Seller's information on Form 593-I.

Exchanges:

- a. Boot Amount. Not to exceed recognized gain . . . \$ _____
- b. Withholding Amount. Multiply line a by the applicable tax rate* and enter the result here and on Form 593, line 5 \$ _____

Failed Exchanges:

- a. Gain on Sale from Form 593-E, line 16 \$ _____
- b. Ownership Percentage. If multiple transferors attempted to exchange this property, enter this seller's ownership percentage. Otherwise, enter 100.00% %
- c. Amount Subject to Withholding. Multiply line a by line b \$ _____
- d. Withholding Amount. Multiply line c by the applicable tax rate* and enter the result here and on Form 593, line 5 . . . \$ _____

If a failed deferred exchange had boot withheld upon in the original relinquished property, reduce the Withholding Amount by the amount previously remitted to the FTB.

Part III - Perjury Statement

Complete the Seller's and Preparer's information. A signature is only required if the Optional Gain On Sale Election method is used.



Additional Information

For more information on real estate withholding, get FTB Pub. 1016, Real Estate Withholding Guidelines. To get a withholding form or publication, or to speak to a representative, contact our Withholding Services and Compliance's automated telephone service at:

(888) 792-4900, or
(916) 845-4900 (not toll free)
FAX (916) 845-9512

OR write to:

WITHHOLDING SERVICES AND COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

For information on requirements to file a California tax return or to get forms call:

From within the United States. (800) 852-5711

From outside the United States. (916) 845-6500 (not toll-free)

You can download, view, and print California tax forms and publications from our website at ftb.ca.gov.

OR to get forms by mail write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Assistance for Persons with Disabilities

We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call:

TTY/TDD (800) 822-6268

Asistencia Telefonica y en el Internet

Dentro de los Estados Unidos, llame al (800) 852-5711

Fuera de los Estados Unidos, llame al (916) 845-6500 (cargos aplican)

Sitio en el Internet ftb.ca.gov

Asistencia para Personas Discapacitadas

Nosotros estamos en conformidad con el Acta de Americanos Discapacitados. Personas con problemas auditivos o de habla pueden llamar al TTY/TDD (800) 822-6268.